

LEVEL 1 - 9 OF 29 STORIES

Copyright 2002 The New York Times Company
The New York Times

April 17, 2002, Wednesday, Late Edition - Final

SECTION: Section A; Page 16; Column 5; National Desk

LENGTH: 819 words

HEADLINE: Democrats Say Bush Revisions Ruin Medical Privacy Rules

BYLINE: By ROBERT PEAR

DATELINE: WASHINGTON, April 16

BODY:

Democratic senators harshly criticized President Bush today for proposing to roll back certain protections for the privacy of medical records, but a Bush administration official defended the White House plan, saying privacy was less important than access to high-quality care.

The comments, at a Senate hearing, indicated that medical privacy was emerging as a political issue in this election year.

Mr. Bush campaigned two years ago on a promise to increase privacy protections. But Al Gore, who lost that election, said over the weekend that the Bush administration proposals would "dismantle the medical privacy of American citizens."

Terry McAuliffe, chairman of the Democratic National Committee, and his pollsters said privacy was likely to become an issue in many House and Senate campaigns this fall because voters cared deeply about it.

President Bush took political credit when he allowed expansive privacy rules issued by President Bill Clinton in December 2000 to take effect a year ago. After listening to the concerns of health care companies, the Bush administration concluded that major provisions were unworkable. The Bush administration proposed to drop the consent requirement while retaining other provisions, often in a revised form.

At the heart of the Clinton rules was a requirement that doctors, hospitals and other health care providers get written consent from patients before using personal health information for treatment, reimbursement or any of a long list of "health care operations" and administrative activities. The Bush administration proposed to drop the consent requirement. Health care providers would still have to inform patients of their rights, and patients would be asked to acknowledge that they had received such notices.

The administration official who defended Mr. Bush's proposal, Claude A. Allen, the deputy secretary of health and human services, told Congress today that the Clinton rules would impede access to care.

"If you did not sign a consent form," Mr. Allen said, "a provider could refuse you care. Mandating consent is coercive -- a hurdle to health care for patients, doctors, hospitals and pharmacists. The primary reason for going to

The New York Times, April 17, 2002

a physician is not privacy. It is care. The mandatory consent requirement put patients at risk of not receiving care."

Senator Hillary Rodham Clinton, Democrat of New York, said the Bush proposals would "substantially weaken the privacy rules." Senator Edward M. Kennedy, Democrat of Massachusetts, said he would introduce legislation to keep the consent requirement that the Bush administration wants to rescind.

Mr. Kennedy presided over today's hearing, held by the Committee on Health, Education, Labor and Pensions, of which he is chairman.

After hearing Mr. Bush's proposals criticized by a half-dozen Democrats, Mr. Allen said: "You may think privacy rights are the most overriding issue. But we stepped back and concluded that it's far more important that we do nothing to impede access to care. Having privacy means little if you don't have access to care."

Republicans defended the Bush proposals or were noncommittal. "Mandatory consent probably makes no sense," said Senator Judd Gregg of New Hampshire, the senior Republican on the committee.

Democratic senators also criticized a Bush proposal that they said would relax restrictions on the use of personal medical data to market health-related products and services.

Under the Bush proposal, doctors, hospitals, drugstores and insurers would have to get permission from a patient before disclosing data for the purpose of marketing. But the Bush administration would redefine "marketing" so it would not include literature that recommends alternative treatments, therapies, drugs or health care providers for an individual patient.

Senator Kennedy told Mr. Allen that the change proposed by President Bush would create "a major loophole."

Psychiatrists opposed the changes proposed by Mr. Bush, but hospitals supported them.

Dr. Richard K. Harding, president of the American Psychiatric Association, said the Bush rules would reduce the burden on doctors, but were "inadequate to protect patients."

James C. Pyles, a lawyer for the American Psychoanalytic Association, said, "The administration appears more interested in protecting communications between the vice president and oil companies than between doctors and patients."

But Dr. John D. Clough, director of health affairs at the Cleveland Clinic Foundation, said Mr. Bush was right to make consent optional.

The Clinton rules would have caused great inconvenience, Dr. Clough said, because "the patient would have to sign one consent form before visiting the physician, another before referral to a specialist, one more before scheduling surgery at a hospital and yet another before sending someone to pick up a prescription."